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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,607	04/05/2006	Noriyuki Fukui	288058US2PCT	4208
22850	7590	07/15/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER CASCA, FRED A	
			ART UNIT	PAPER NUMBER
			2617	
			NOTIFICATION DATE	DELIVERY MODE
			07/15/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No. 10/574,607	Applicant(s) FUKUI ET AL.	
	Examiner FRED A. CASCA	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAIL ACTION

1. This action is in response to applicant's amendment filed on June 18, 2009. Applicant's arguments filed on June 18, 2009 are persuasive; therefore, the finality of the Office Action dated 04 April 2007 is withdrawn. However, claims 10-19 are rejected in view of new grounds of rejection.

Claim Rejections - 35 USC § 112

2. The rejection of claims 10 -19 under 35 U.S.C. 112, first paragraph, is withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parantainen et al (US 2002/0181422 A1) in view of Haartsen (US 2002/0178250 A1).

Referring to claim 10, Parantainen discloses a communication method for a communication system (abstract) including a base station and a terminal (figure 1), the terminal transmitting a data as a new data to the base station (figure 1-6b and paragraphs 24-25), and upon receiving an NAK signal indicating a reception failure from the base station as a response to the

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transmission of the new data, transmitting the new data as retransmission data to the base station, (abstract figures 4-6b) the communication method comprising

a first step for the base station to transmit information on a value of a resource for data transmission that is used for a communication between the base station and the terminal (figures 4-6b and paragraphs 2-3 and 49, note that in cellular communications, e.g., GSM, a down link frequency and an uplink frequency gets assigned to allow communication between the terminal and the base station. This frequency is the value of the claimed resource);

a second step for the terminal to receive, from the base station, information on the value of the resource for data transmission (Figures. 1-6B and Par. 2-3 and 49, note that receiving information on which reverse link frequency to use is inherent in cellular communication);

a third step for the terminal to transmit a new data to the base station based on the value of the resource for data transmission (Par. 71, “uplink packet data”); and

a fourth step for the terminal, to transmit a retransmission data to the base station regardless of the value of the resource for data transmission, in case the NAK signal is received from the base station as a response to the new data (Par. 68, note retransmission happens regardless of what data packet was used in the initial data transmission).

Parantainen does not specifically disclose that in the fourth step the retransmission takes place when both the new data is transmitted and the NAK is received in the format claimed.

Haartsen discloses retransmissions when NAK is received the data is received in error (Par. 50).

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It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the method of Parantainen in the format claimed for the purpose of providing an efficient communication system.

Referring to claims 11-13, claims 11-13 recite features analogous to the features of the method defined by claim 10 (as rejected above). Thus, the combination of Parantainen/Haartsen discloses all elements of claims 11-13 (please see the rejection of claim 10 above).

Referring to claim 14, The combination of Parantainen/Haartsen discloses the communication method according to claim 10, and further disclose in the fourth step the retransmission data is transmitted after a predetermined time defined between the terminal and the base station has elapsed since reception of the NAK signal in the format claimed (Haartsen, Par. 50 and Parantainen, ARQ).

It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the method of Parantainen in the format claimed for the purpose of providing an efficient communication system.

Claim 17 recites features analogous to the features of claim 14. Thus, it is rejected for the same reasons as set forth in the rejection of claim 14.

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5. Claims 15, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable Parantainen et al (US 2002/0181422 A1) in view of Haartsen (US 2002/0178250 A1) and further in view of well known prior art (MPEP 2144.03).

Referring to claim 15, the combo of Parantainen/Haartsen discloses the communication method according to claim 10.

The combination does not specifically disclose wherein in the fourth step the retransmission data is transmitted at a coding rate lower than an initial coding rate used in the third step.

The examiner takes official notice of the fact that retransmission of data at a lower data rate is well known in the art.

It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the combination in the format claimed, for the purpose of providing an efficient communication system.

Referring to claim 16, the combo of Parantainen/Haartsen discloses the communication system according to claim 11.

The combo does not specifically disclose wherein the base station further includes a scheduling unit configured to estimate a transmission time zone for retransmission data transmitted by the terminal, and the first unit transmits information on the value of the resource for data transmission to another terminal that requests resource assignment from the base station, the information on the value of the resource for data transmission incorporating the estimated transmission time zone estimated by the scheduling unit, in the format claimed.

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The examiner takes official notice of the fact that retransmission at different time zones is well known in the art.

It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the method of Wei in the format claimed, for the purpose of providing an efficient communication system.

Claim 18 recites features analogous to the features of claim 15. Thus, it is rejected for the same reasons as set forth in the rejection of claim 15.

Claim 19 recites features analogous to the features of claim 16. Thus, it is rejected for the same reasons as set forth in the rejection of claim 16.

Response to Arguments

6. Applicant's arguments with respect to claims 10-19 have been considered but are they are moot in view of new grounds of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED A. CASCA whose telephone number is (571)272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper, can be reached at (571) 272-7605. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617